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3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

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6 Sydney Ellerbe *doing business as* Wall
Street World, Inc.,

7 Plaintiff,

8 v.

9 Becca's Restaurant & Sports Lounge *doing*
10 *business as* Scotty's Restaurant & Lounge,

11 Defendant.

Case No. 2:24-cv-00555-JAD-DJA

Report and Recommendation

12 On July 26, 2024, the Court screened Plaintiff's complaint and dismissed it with leave to
13 amend. (ECF No. 5). The Court gave Plaintiff until August 26, 2024, to file an amended
14 complaint and explained that "[f]ailure to comply with this order will result in the recommended
15 dismissal of this case." (*Id.*). Plaintiff missed that deadline, so the Court entered an order to
16 show cause on September 10, 2024. (ECF No. 7). In that order, the Court required Plaintiff to
17 show cause on or before October 10, 2024, why the Court should not recommend dismissal of
18 this action for Plaintiff's failure to comply with the Court's screening order. (*Id.*). The Court
19 again warned Plaintiff that "failure to comply with this order may result in a recommendation of
20 dismissal to the district judge." (*Id.*). Plaintiff missed the October 10, 2024, deadline and, to
21 date, has not filed anything further in this action. The Court thus recommends that Plaintiff's
22 case be dismissed without prejudice. A dismissal without prejudice allows Plaintiff to refile a
23 case with the Court, under a new case number.

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25 Accordingly, the undersigned **RECOMMENDS** that this case be **DISMISSED** without
26 prejudice. The Clerk of Court is kindly directed to send this recommendation to Plaintiff.

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NOTICE

Pursuant to Local Rule IB 3-2 any objection to this Report and Recommendation must be in writing and filed with the Clerk of the Court within (14) days after service of this Notice. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985), *reh'g denied*, 474 U.S. 1111 (1986). The Ninth Circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

DATED: October 29, 2024



DANIEL J. ALBREGTS
UNITED STATES MAGISTRATE JUDGE